The Hon'ble Sri Justice D.S.R.Varma

Writ Petition No.23180 of 1996
(ON BEING MENTIONED"

Dated: 19-7-2006

Between:

K.Sreenivasa

Rao.

..Petitioner

And

1.The Airports Authority of India, rep. by its Chairman, Rajiv Gandhi Bhavan, Safdarjung Airport, New Delhi-110 003, and others.

..Respondents.

The Hon'ble Sri Justice D.S.R.Varma

Writ Petition No.23180 of 1996

Oral Order: ("On being mentioned"):-

On 5th July, 2006, this Court passed Order in Writ Petition No.23180 of 1996 al the same. Soon after dictating the order in open court and before it is signec E.Madanmohan Rao, learned Standing Counsel for the Air Ports Authority of India, app and brought to the notice of this Court that his name was not printed in the caus dated 5th July 2006, and so he could not make his submissions. Hence, this directed the Registry to post this writ petition under the caption 'for being mentionec printing the name of Mr. E.Madanmohan Rao. Accordingly, the writ petition is listed before this Court under the caption 'for being mentioned'. That is how the writ petition is again before this Court today.

Having regard to the above circumstances, in the interests of justice, the order p by this Court on 05th July, 2006 in this Writ Petition No.23180 of 1996 is hereby recalle the writ petition is taken up for hearing afresh today.

Heard both sides.

Petitioner seeks a writ of Certiorari to quash the proceedinç AAI/BER/RAU/SAO/1641 dated 30.8.1996/4-9-1996 of the 4th respondent a consequential Office Note No.NAD/AAI/Foreign Tour/96 dated 18.10.1996 of the 3rd respc by declaring the same as illegal, arbitrary and violative of principles of natural justice.

Petitioner is working as Electronic Officer, Airports Authority of India, N.A. D Hyderabad. Twelve officials, including the petitioner, were sent by the respondents to Ba United States of America, on 30.8.1993 for undergoing training upto 3.12.1993, i.e., for 9 The Airports Authority of India addressed the Reserve Bank of India to issue permit for dr certain foreign exchange and it appears that the Reserve Bank of India allowed drawal (17,550 for each trainee towards 'living expenses' and the petitioner appears to have dra same from the Vijaya Bank, New Delhi, undertook journey to Baltimore, U.S.A, and retu India on 5.12.1993 on completion of training.

The petitioner submitted his T.A. Settlement Bill by showing the entire amount rec foreign exchange as 'living expenses'. Thereupon, by the impugned orders, the petitior directed by the respondents to refund foreign exchange to the tune of $1897 on the grou the said foreign exchange was "overdrawn" by him. Hence, the writ petition.

While admitting the writ petition, on 1.11.1996, this Court granted interim stay of re of the excess foreign exchange from the petitioner until further orders.

A detailed counter-affidavit has been filed on behalf of the respondents, controver averments made by the petitioner in the affidavit filed in support of the writ petition.

Learned Counsel appearing for the petitioner contended that the impugned ord opposed to the principles of natural justice, as no notice was issued to the petitioner in (enable him to submit his explanation.

Sri E.Madanmohan Rao, learned Counsel appearing for the respondents contenc as per the policy, which was in vogue at the relevant point of time, the trainees were sent by providing them specific sum in the shape foreign exchange in order to meet their expenses' abroad and the trainees are expected to account for the foreign exchange prov them on their return from abroad. He contended that the amount of foreign ex provided to the petitioner and other trainees is 'public money' and as the petitioner l produced the requisite bills showing the expenditure incurred by him abroad the respc

directed him to return $ 1897.

The respondent-Airports Authority had issued Office Memorandum No. D.21015 Bud/NAA, dated 10.10.1991, for providing foreign exchange for meeting the 'living expens 'boarding expenses' to the trainees. As per the said memorandum, the Reserve Bank has released a sum of $ 1750 for each of the trainees for their stay abroad for abou months. The memorandum further states that the trainees may overstay and visit other also, but no additional foreign exchange will be released for such overstayed period. How is admitted in the counter-affidavit that the Reserve Bank of India issued permit to the pe to utilize $ 1750 towards 'living expenses' abroad and the petitioner received the same.

It appears from the counter-affidavit that Dearness Allowance etc., has to be split i parts, i.e., 55% in U.S. Dollars as 'living allowance' and 45% thereof as 'lodging allowar production of hotel bills. It appears that the petitioner had produced hotel bills for as against the admissible receipts for $ 7897. The shortfall of $ 1897 was requeste refunded, as the same was not covered by hotel receipts.

In this regard, it is to be noted that it may not, at all times, be possible to explai how the permissible amount was spent by the petitioner, by producing the bills for ea every small item of expenditure. No doubt, a procedure appears to have been carved processing the claims of the petitioner and other trainees as regards the expenditure incu them abroad.

Further, it is on record that since the petitioner had produced bills only to an exte 6000 and as he did not produce the bills for the rest of the expenditure, the shortfall was by the respondents as the expenditure not properly explained by the petitioner, and (equivalent to Rs.60,135/-) was sought to be recovered from him.

In my considered view, the respondents, despite the aforesaid Office Memorandum not to have been so rigid in asking the petitioner to produce the bills for each and sundry living expenditure incurred by him abroad during the period of his stay for the purp undergoing training. It cannot be forgotten that the petitioner was sent abroad as a trair his mind should be on receiving the training and enriching his knowledge, but not on th things like keeping bills for each and every item of expenditure with him for the purp producing and explaining the same before the respondents on return from abroad.

Furthermore, it is not the case of the respondents that the petitioner had misappro any foreign exchange granted to him and caused loss to the Government of India. The the respondents, if put in nutshell, appears to be that the amount sanctioned, though s the petitioner, was not properly explained by him by producing the bills. The approach respondents in this type of matters should be pragmatic rather than pedantic.

That apart, no notice calling for explanation from the petitioner for not producing t for some expenditure incurred by him abroad appears to have been issued which, considered view, amounts to violation of principles of natural justice.

Yet another contention of the learned Counsel appearing for the respondents recovery was effected from similarly placed persons as that of the petitioner and recovery is sought to be effected from the petitioner also in the interest of public exchequ hence, the impugned orders are justified.

Maybe, recovery might have been effected from other persons similarly placed as the petitioners. But, what had happened and what was the procedure that was followed ir relating to others is not forthcoming. Even otherwise, it is not fair for the respondents t

recovery at this stage since, apparently, it is not the case of the respondents that there v misappropriation committed by the petitioner causing loss to the exchequer. Rather, it is technical violation, if any, committed by the petitioner in not producing the bills, which ou to have been viewed so seriously.

However, mainly on the ground that there is infraction of principles of natural just on the other ground that resorting to recovery of $ 1897, or the equivalent sum in currency from the petitioner, after a lapse of three years from the date of his return to I completion of training, is something strange and not rational, the impugned orders are l be quashed.

In the result, the writ petition is allowed as prayed for. A Writ of Certiorari sha accordingly. It is made clear that this order shall not be treated as a 'precedent' in an case. There shall, however, be no order as to costs.

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19-7-2006 D.S.R.Varma, .

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The Hon'ble Sri Justice D.S.R.Varma

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